

Pradeep Tandon, Vs. State of U.P. and Another.

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SooperKanoon Citation : sooperkanoon.com/911128

Court : Allahabad

Decided On : Jul-02-2010

Judge : A.K. Roopanwal, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 467, 468, 471, 120-B, 420, 463 ;
[The Code Of Criminal Procedure \(CrPC\), 1973](#) - Sections 482, 156(3),

Appeal No. : Criminal Misc. Application No.11688 of 2006.

Appellant : Pradeep Tandon.

Respondent : State of U.P. and Another

Advocate for Def. : Mr. Ghanshyam Joshi, Adv.

Advocate for Pet/Ap. : Mr. K.D. Tiwari, Adv.

Judgement :

1. This application under Section 482, Cr.P.C. has been moved for quashing the entire criminal proceedings of case no.1231/08, under Section 467, 468, 471, 120-B, IPC, pending before the Additional CJM, 1st, Rampur.

2. It appears from the record that O.P. No.2 Ram Chandra Agarwal moved an application under Section 156(3), Cr.P.C. against the applicant and one Ram Murti alleging therein that he was the electricity consumer of connection no.55203/223, 66.340 H.P. He had closed his business in the year 1995 and therefore, did not need the aforesaid connection. He moved an application on 15.9.95 in the

electricity department, Moradabad informing that he had closed his business and above connection be disconnected. On the instructions of the Higher Officers of the department his connection was disconnected and the electricity meter was taken away on 20.3.96 by Ram Murti, employee of the electricity department. In spite of this dismantling he was not issued the last bill of the electric dues.

3. In April, 2003 revenue authorities of Moradabad Tahsil came at the residence of the informant and informed him that electricity department had issued a recovery certificate for Rs.31,98,435/-. The informant opposed the certificate and made complaints to the engineers of the electricity department, District Magistrate and other officers. On the complaint of the informant Additional District Magistrate, Revenue and Finance, Moradabad ordered a magisterial enquiry into the matter. It was found in the inquiry report dated 1.4.04 that the recovery certificate had wrongly been issued as the informant had never used electric power after disconnection. During the inquiry the officers of the electricity department relied upon a shifting contract and on the basis of it they claimed that the informant continuously used electric power while his connection had already been disconnected as stated above. The informant agitated that he never executed any shifting contract nor signed any such contract and any such contract has fraudulently been manufactured by the officials of the electricity department. On 7.10.05 the informant met the applicant Pradeep Tandon and tried to know about the recovery certificate at which he said that without lodging an FIR the matter could not be finalised. On the application of the applicant under Section 156(3), Cr.P.C. a case was registered against the applicant and one Ram Murti at P.S. Civil Lines on 27.11.05 at crime no.3958/05, under Section 467, 468, 471, 420, IPC. The matter was investigated by the police and after investigation charge sheet was submitted against the applicant on which cognizance was taken.

4. Heard Mr. K.D. Tiwari, learned counsel for the applicant, Mr. Ghanshyam Joshi for O.P. No.2, learned AGA and perused the record. It has been argued by Mr. Tiwari that the applicant joined as Executive Engineer in the Electricity Department, Moradabad on 15.12.02 and the matter of the informant was languishing in the hands of earlier officers since 1996, therefore, no liability can be fastened upon the applicant. It has further been argued that the applicant had only

signed the recovery certificate on the basis of the noting made by the subordinate staff.

5. A look at the record would reveal that nothing was brought out during the evidence by which it could be said that any forgery as defined under Section 463, IPC was ever committed by the applicant. This could be done only when the applicant would have made any forged document or false electronic record with intent to cause damage or injury to the informant and because no such evidence was collected to this effect, hence, the charges under Section 467, 468, 471, IPC can not be said to have been made out. So far as the offence under Section 420, IPC is concerned, for that the evidence should have been collected to the effect that the applicant had ever deceived any person in order to induce that person to deliver any property and because no such evidence was ever collected, hence, the offence punishable under Section 420, IPC is also not made out. So far as the charge under Section 120 B, IPC is concerned, that too is not made out as the evidence of conspiracy has also not been collected during the investigation.

6. During the investigation only this evidence was collected that the applicant had issued recovery certificate which was not correct as the disconnection had already taken place of the electric connection of the informant. Even if it be assumed that this fact is correct by that only this can be said that the applicant had acted upon the wrong noting of the subordinate staff and in such view of the matter, this can only be a departmental lapse on the part of the applicant which in no way can be said to be committing the offences as stated above. In view of the above discussion, I do feel that it was a case where there was no evidence whatsoever concerning the offences punishable under sections 467, 468, 471, 420, 120B, IPC and therefore, the charge sheet should not have been submitted and when it has been submitted, it cannot be said to be a justified act on the part of the I.O. and is liable to be quashed.

7. Accordingly, petition is allowed. Proceedings of case no.1231/08, under Section 467, 468, 471, 120-B, IPC, pending before the Additional CJM, 1st, Rampur against the applicant are, hereby, quashed. The trial court be informed accordingly.

